

SECTION B
SUPPLIES OR SERVICES AND PRICES/COSTS

The contractor shall furnish the necessary equipment, personnel, facilities and supplies to conduct studies on the research project entitled "Oral Vaccination Against Y.pestis and Anthrax Using Transgenic Plant Expressing Protective Antigens", in accordance with Section C, and the contractor's technical proposal dated 12 April 1995, which is incorporated herein by reference.

TERM OF CONTRACT: 15 August 1995 - 14 February 1996

AMOUNT ALLOTTED TO CONTRACT TO DATE: \$99,544

TOTAL AMOUNT OF CONTRACT: \$99,544

PRINCIPAL INVESTIGATOR: Dr. Karen Oishi

TYPE OF CONTRACT: Firm-Fixed-Price

<u>ITEM</u>	<u>DESCRIPTION</u>	<u>QUANTITY</u>	<u>U/I</u>	<u>UNIT PRICE</u>	<u>AMOUNT</u>
0001	ORAL VACCINATION AGAINST Y.PESTIS AND ANTHRAX USING TRANSGENIC PLANT EXPRESSING PROTECTIVE ANTIGENS	1.00	LS	99544.000000	99,544.00
0002	EXPRESSION VECTORS AND EXPRESSED TRANSGENE PROTEINS AS DETERMINED IN CONSULTATION WITH THE CONTRACTING OFFICER'S REPRESENTATIVE (COR)	1.00	LS	0.000000	0.00

END OF SECTION B

SECTION C

DESCRIPTION/SPECS./WORK STATEMENT

C.1 DESCRIPTION/SPECIFICATIONS/WORK STATEMENT

a. Background: The U.S. Army Medical Research and Materiel Command, in support of the Department of Defense Small Business Innovation Research (SBIR) Program, has taken part in the Program Solicitation for FY 94. Objectives of this solicitation included stimulating technological Innovation in the private sector, strengthening the role of small business in meeting Federal research and development needs, fostering and encouraging participation by minority and disadvantaged persons in technological innovation, increasing the commercial application of DoD-supported research results, and improving their return on investment from Federally funded research for economic and social benefits to the Nation. This program solicitation was issued in compliance with the Small Business Innovation Development Act of 1982, Public Law 97-219, as amended.

b. Phased-Program

Phase I is to determine, insofar as possible, the scientific or technical merit and feasibility of ideas submitted under the SBIR program. The contractor shall concentrate on that research or development which will significantly contribute to proving the scientific or technical feasibility of the approach or concept and which would be a prerequisite to further DOD support in Phase II.

Phase II awards are expected to be made during fiscal year 1996 to firms with approaches that appear sufficiently promising as a result of the first phase. Phase II awards are expected to typically cover 2 to 5 man-years of effort and to cover a period generally not to exceed 24 months, subject to negotiation. The number of Phase II awards will depend upon Phase I results and availability of funds. Phase II is the principal research or development effort; it will require a more comprehensive proposal, outlining the proposed effort in detail.

Under Phase III, it is intended that non-Federal capital be used by the small business to pursue commercial applications of the research or development. Also, under Phase III, Federal agencies may award non-SBIR funded follow-on contracts for products or processes which meet the mission needs of those agencies.

C.2 WORK REQUIRED

a. Study Title: Oral Vaccination Against Y.pestis and Anthrax Using Transgenic Plant Expressing Protective Antigens.

b. The contractor shall, for the period of six months following contract award, furnish the necessary personnel, facilities, equipment and supplies, to conduct Phase I of the study cited above. The statement of work as contained in the contractor's proposal dated 12 April 1995, in response to the SBIR 95.2 solicitation is incorporated herein by reference.

C.3 REPORTING REQUIREMENTS, GENERAL (OCT 1992) (USAMRAA)

a. The contractor shall submit the following technical reports:

- (1) Monthly Reports five (5) copies per period to two (2) addresses (see Section J.5)
- (2) Final Reports in eight (8) copies to three (3) addresses (due date 14 February 1996) see Section J.5)
- (3) Phase II Proposal (see Section J.6)
- (4) Copies of manuscripts submitted for publication (see Section F)
- (5) Copies of abstracts for professional meetings (see Section F)
- (6) Reprints of publications when available (see Section F)
- (7) News releases related to this contract (see Section F)

b. Complete, accurate and timely reports on the progress and/or findings of the research supported by this contract are required. Failure to meet prescribed standards of either quality or timelines may be cause for termination of the contract, delays in the release of periodic funding, and withholding of payments as prescribed by Defense Federal Acquisition Regulation Supplement (DFARS) 252.227-7030.

C.4 CONTRACTOR'S AUTHORITY (MAR 1992) (USAMRAA)

The contractor shall bear primary responsibility for the conduct of the research and shall exercise judgment towards attaining the stated research objectives within the limits of this contract's terms and conditions. Written approval of the Contracting Officer shall be obtained prior to change of the methodology or experiment, stated objectives of the research effort, or the phenomenon or phenomena under study.

C.5 CONTRACTING OFFICER'S AUTHORITY (MAR 1992) (USAMRAA)

The Contracting Officer is the only person authorized to direct changes in any of the requirements under this contract and notwithstanding any provisions contained elsewhere in this contract, the said authority remains solely in the Contracting officer. In the event that the contractor effects any such changes at the direction of any person other than the Contracting Officer, the change will be considered to have been made without authority and solely the risk of the contractor.

C.6 CONTRACTING OFFICER'S REPRESENTATIVE AUTHORITY (OCT 1992) (USAMRAA)

A Contracting Officer's Representative (COR) shall be designated by the Contracting Officer to perform technical liaison between the contractor's management and the Contracting Officer in routine technical matters, i.e., prioritization of requirements. Under no circumstances is the COR authorized to effect any changes in the work required under this contract whatsoever, nor to enter into any agreement that has the effect of changing the terms and conditions of this contract, or that causes the contractor to incur any unforeseeable costs. In addition, this individual will not supervise, direct or control contractor employees. Notwithstanding this provision, to the extent that contractor accepts any direction that

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constitutes a change to this contract without the prior written authorization of the Contracting Officer, costs incurred in connection therewith are incurred at the sole risk of the contractor, and if invoiced under this contract will be disallowed.

C.7 PRINCIPAL INVESTIGATOR (MAR 1992) (USAMRAA)

The Principal Investigator for this contract is Dr. Karen Oishi. This individual shall be continuously responsible for the conduct of the research project and be closely involved with the research efforts. The contractor shall obtain the Contracting Officer's approval to change the Principal Investigator or to continue the research work during a continuous period in excess of three months without the participation of an approved Principal Investigator. This contract is based on the Principal Investigator devoting 104 hours of effort to the project over the term of the contract. The contractor shall advise the Contracting Officer if the Principal Investigator will, or plans to, devote substantially less effort to the work than estimated in the contractor's proposal. A curriculum vitae should be provided for professional associates added to the research project or substituted during the course of work.

C.8 CONTRACTOR SAFETY AND REPORTING (BRDP) (NOV 1992) (USAMRAA)

a. The contractor shall operate under established safety programs for all biosafety Levels of work as identified in the Memorandum of Environmental and Safety Analysis, which is incorporated in this contract. These safety programs shall ensure that personnel, facilities, and the environment are protected from accidents and hazardous exposures.

b. The contractor shall conduct this contract work under established operating procedures which ensure that all individuals who have access to areas for storage, handling, and disposal of etiologic agents are trained and are thoroughly familiar with safety requirements. Such procedures shall assure full compliance with the regulatory standards cited above.

c. The contractor shall conduct an inspection and report the results of all required biosafety inspections for all Research Development, Test, or Evaluation work in accordance with the below listed timeframes. As a minimum the safety inspections shall address those factors identified in the Memorandum of Environmental and Safety Analysis (MESA).

1. For Biosafety Level (BL) 1 and 2:

Time	Inspector
Preaward	Government designated Biosafety Officer
Quarterly	First Line supervisor
Annual	Contractor safety personnel
2. For Biosafety Level (BL) 3 and 4:

Time	Inspector
Preaward	Government designated Biosafety Officer
Monthly	First Line supervisor
Semiannual	Government designated Biosafety Officer
3. Copies of all biosafety inspection reports will be distributed as follows:
Original:
 In the contractor's records (Retained for at least three years)

One copy to the following:

U.S. Army Medical Research and Materiel Command
ATTN: MCMR-RCQ-S
Fort Detrick
Frederick, MD 21702-5012

U.S. Army Medical Research and Materiel Command
ATTN: MCMR-PLD
Fort Detrick
Frederick, MD 21702-5012

U.S. Army Medical Research Acquisition Activity
ATTN: MCMR-AAA-B
Fort Detrick
Frederick, MD 21702-5014

C.9 EMERGENCY COORDINATION AND REPORTING (BDRP) (NOV 1992) (USAMRAA)

a. Emergency Response Plan: The contractor shall, prior to commencing work with the BDRP etiologic agent, coordinate with local emergency support agencies, to include health, fire, police, and other appropriate local government agencies, to inform them of the activities to be performed under this contract, and to formalize the appropriate support necessary, to include any equipment and training, to provide effective emergency response. The agreements for emergency support shall be formalized in writing. The contractor shall prepare an Emergency Response Plan, based in part on the agreement of emergency support, that provides a comprehensive plan for responding to laboratory emergencies. The Emergency Response Plan (with the agreements for emergency support as appendices) was formalized in writing as part of the contractor's Memorandum of Environmental and Safety Analysis (MESA). A copy of the plan shall be retained in your organizational safety office.

b. Annual Review and Coordination: The contractor shall review the Emergency Response Plan annually, during the month of July, in consultation with each participating external support agency. The Emergency Response Plan shall be formally revised, where necessary, to incorporate current emergency support requirements. The revised Emergency Response Plan (with the agreements for emergency support as appendices) shall be formalized in writing. A copy of the revision shall be retained in your organizational safety office.

c. Annual Report: The contractor shall submit a letter report documenting the outcome of the annual review of its Emergency Response Plan. The report shall include the dates of the annual review and coordination, and shall identify and describe all provisions that represent changes to the initial Emergency Response Plan or the previous year's annual report. The report shall be submitted no later than August 1 of each year, beginning with the first August during the performance of your contract.

d. Report Submission: All reports identified in this provision shall be submitted to the following address:

U.S. Army Medical Research and Materiel Command
ATTN: MCMR-RCQ-S
Fort Detrick
Frederick, Maryland 21702-5012

C.10 ETIOLOGIC AGENTS--BIOLOGICAL DEFENSE RESEARCH PROGRAM (BDRP) (CONUS) (NOV 1992) (USAMRAA)

a. For purpose of this contract etiologic agent--biological defense program is defined as: any viable microorganism, or its toxin which causes or may cause human disease, including those agents listed in 42 CFR 723 of the Department of Health and Human Services regulations, and any agent of biological origin that poses a degree of hazard to those agents and is further identified by the U.S. Army as a threat agent. The contractor shall comply with the following when working with etiologic agents:

1. 29 Code of Federal Regulations 1910
2. Occupational Health Standards, and the U.S. Department of Health and Human Services (DHHS)
3. DHHS Publication No. 88-8395, Biosafety in Microbiological and Biomedical Laboratories, 1988, as amended
4. 32 CFR 626 Biological Defense Safety Program
5. 32 CFR 627 Biological Defense Safety Program

b. Etiologic agents shall be packaged, labeled, shipped, and transported in accordance with applicable Federal, state and local laws and regulations, to include:

1. 42 CFR 72 (interstate Shipment of Etiologic Agents)
2. 49 CFR 172 and 173 (Department of Transportation)
3. 9 CFR 122 (USDA Restricted Animal Pathogens)
4. International Air Transport Associated Regulations.
5. The United States Postal Service shall not be used for transportation of BDRP activities involving etiologic agents.

C.11 INVESTIGATING AND REPORTING POSSIBLE SCIENTIFIC MISCONDUCT (JAN 1992) (USAMRAA)

a. "Misconduct" or "Misconduct in Science" is defined as fabrication, falsification, plagiarism, or other practices that seriously deviate from those that are commonly accepted within the scientific community for proposing, conducting or reporting research. It does not include honest error or honest differences in interpretations or judgments of data.

b. Contractors shall foster a research environment that prevents misconduct in all research and that deals forthrightly with possible misconduct associated with research for which U.S. Army Medical Research, Development, Acquisition and Logistics Command (Prov.) funds have been provided or requested.

c. The contractor agrees to:

- (1) Establish and keep current an administrative process to review, investigate, and report allegations of misconduct in science in connection with research conducted by the contractor;
 - (2) Comply with its own administrative process;
 - (3) Inform its scientific and administrative staff of the policies and procedures and the importance of compliance with those policies and procedures;
 - (4) Take immediate and appropriate action as soon as misconduct on the part of employees or persons within the organization's control is suspected or alleged; and
 - (5) Report to the Administrative Contracting Officer (ACO) a decision to initiate an investigation into possible scientific misconduct.
- d. The contractor is responsible for notifying the ACO of appropriate action taken if at any stage of an inquiry or investigation any of the following conditions exist:
- (1) An immediate health hazard is involved;
 - (2) There is an immediate need to protect Federal funds or equipment;
 - (3) A probability exists that the alleged incident will be reported publicly; or
 - (4) There is a reasonable indication of possible criminal violation.

END OF SECTION C

SECTION D

PACKAGING AND MARKING

D.1 LOCAL REQUIREMENTS (USAMRAA SEP 92)

COMMERCIAL PACKING AND MARKING, REFRIGERATED ITEMS (MAR 1992) (USAMRAA)

a. Packing shall be adequate to accommodate refrigerated item to ensure acceptance by common carrier for safe delivery to U. S. Army Medical Research Institute of Infectious Diseases, ATTN: MCMR-UIZ-M/Timothy A. Hoover, Ph.D., Fort Detrick, Building 1425, Frederick MD 21702-5011.

b. All shipping or mailing containers shall be marked showing Contract Number, Request Number and the destination address shown in Section D.1.a. above and marked clearly as "Refrigerated Items".

END OF SECTION D

SECTION E

INSPECTION AND ACCEPTANCE

E.1 52.246-4 INSPECTION OF SERVICES--FIXED-PRICE (FEB 1992)
(Reference 46.304)

END OF SECTION E

SECTION F

DELIVERIES OR PERFORMANCE

F.1 52.212-13 STOP-WORK ORDER (AUG 1989)

(a) The Contracting Officer may, at any time, by written order to the Contractor, require the Contractor to stop all, or any part, of the work called for by this contract for a period of 90 days after the order is delivered to the Contractor, and for any further period to which the parties may agree. The order shall be specifically identified as a stop-work order issued under this clause. Upon receipt of the order, the Contractor shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the order during the period of work stoppage. Within a period of 90 days after a stop-work is delivered to the Contractor, or within any extension of that period to which the parties shall have agreed, the Contracting Officer shall either--

(1) Cancel the stop-work order; or

(2) Terminate the work covered by the order as provided in the Default, or the Termination for Convenience of the Government, clause of this contract.

(b) If a stop-work order issued under this clause is canceled or the period of the order or any extension thereof expires, the Contractor shall resume work. The Contracting Officer shall make an equitable adjustment in the delivery schedule or contract price, or both, and the contract shall be modified, in writing, accordingly, if--

(1) The stop-work order results in an increase in the time required for, or in the Contractor's cost property allocable to, the performance of any part of this contract; and

(2) The Contractor asserts its right to the adjustment within 30 days after the end of the period of work stoppage; provided, that, if the Contracting officer decides the facts justify the action, the Contracting Officer may receive and act upon the claim submitted at any time before final payment under this contract.

(c) If a stop-work order is not canceled and the work covered by the order is terminated for the convenience of the Government, the Contracting Officer shall allow reasonable costs resulting from the stop-work order in arriving at the termination settlement.

(d) If a stop-work order is not canceled and the work covered by the order is terminated for default, the Contracting Officer shall allow, by equitable adjustment or otherwise, reasonable costs resulting from the stop-work order.

(End of clause)

F.2 LOCAL REQUIREMENTS (USAMRAA SEP 92)

DELIVERABLES Description: Expression Vectors and Expressed Transgene Proteins Delivery Date: As determined in consultation with the Contracting Officer's Representative (COR)

F.3 MANUSCRIPTS FOR PUBLICATION (MAR 1992) (USAMRAA)

- a. Contractors are encouraged to publish results of research supported by USAMRMC in appropriate publications. Any publication which may create a statutory bar to the issuance of a patent on any subject invention shall be coordinated with appropriate patent counsel.

b. Manuscripts intended for publication in any media shall be submitted in four (4) copies to Commander, U.S. Army Medical Research and Materiel Command, ATTN: MCMR-RMI-S, Fort Detrick, MD 21702-5012, simultaneously with submission for publication. Review of such manuscripts is for comment to the Principal Investigator, not for approval or disapproval. Copies shall be forwarded even though publication may in fact be sequent to the expiration of the contract.

c. Reports and abstracts which appear in professional journals and programs shall include the following statements:

(1) "This work is supported by the U.S. Army Medical Research and Materiel command under Contract No. DAMD17-95-C-5102.

(2) "The views, opinions and/or findings contained in this report are those of the author(s) and should not be construed as an official Department of the Army position, policy or decision unless so designated by other documentation."

(3) "In conducting research using animals, the investigators adhered to the "Guide for the Care and Use of Laboratory Animals," prepared by the Committee on Care and Use of Laboratory Animals of the Institute of Laboratory Animal Resources, National Research Council (NIH Publication No. 86-23, Revised 1985)."

(4) "In the conduct of research where humans are the subjects, the investigators) adhered to the policies regarding the protection of human subjects as prescribed by 45 CFR 46 and 32 CFR 219 (Protection of Human Subjects)."

F.4 DISCLAIMER FOR REPORTS AND PUBLICATIONS (MAR 1992) (USAMRAA)

All draft and approved reports shall display the following disclaimer statement on the cover and/or title page of the report: "The views, opinions and/or findings contained in this report are those of the author(s) and should not be construed as an official Department of the Army position, policy or decision unless so designated by other documentation."

F.5 PUBLIC RELEASES (MAR 1992) (USAMRAA)

Prior to release to the public, the contractor shall notify the Contracting Officer and the Contracting Officer's Representative (COR) of the following: planned news releases, planned publicity, advertising material concerning contract work, and planned presentations to scientific meetings. This provision is not intended to restrict dissemination of research information; the purpose is to inform the U.S. Army Medical Research and Materiel Command (USAMRMC) of planned public release of information on USAMRMC-funded research, in order to adequately respond to inquiries and to be alert to the possibility of inadvertent release of information which could be taken out of context.

END OF SECTION F

SECTION G

CONTRACT ADMINISTRATION DATA

G.1 LOCAL REQUIREMENTS (USAMRAA SEP 92) PAYMENTS

The Government agrees to provide the following partial payments upon receipt and acceptance of monthly progress reports; \$17,918 for each of the five months. The final payment of \$9,954 shall be made upon receipt and acceptance of the Phase I Final Report.

G.2 REPRESENTATIONS AND CERTIFICATIONS (MAR 1992) (USAMRAA)

The representations, certifications, and other statements of the contractor, contained in Section K of their proposal dated July 28, 1995, are incorporated herein by reference.

G.3 INCORPORATION OF THE MEMORANDUM OF ENVIRONMENTAL AND SAFETY ANALYSIS (OCT 1992) (USAMRAA)

The Contractor's Memorandum of Environment and Safety Analysis (MESA) dated July 25, 1995 is incorporated herein by reference and hereby made a part of this contract.

G.4 USE OF TECHNICAL REFERENCE FACILITY (MAR 1992) (USAMRAA)

The contractor agrees to use the technical reference facilities of the Defense Technical Information Center, ATTN: DTIC-DDA, Cameron Station, Alexandria, VA 22304 for the purpose of surveying existing knowledge and avoiding needless duplication of scientific and engineering effort and the expenditure thereby represented. To the extent practical, all other sources, whether or not Government controlled, shall be consulted for the same purpose.

G.5 RECOMBINANT DNA (NOV 1994) (USAMRAA)

The contractor shall perform all work involving the use of recombinant DNA in compliance with Guidelines for Research Involving Recombinant DNA Molecules; Notice, Federal Register, July 5, 1994, Volume 59, Number 127.

G.6 TRAVEL (MAR 1992) (USAMRAA)

a. Approval of Foreign Travel. The cost of foreign travel is allowable only when the specific written approval of the Contracting Officer or Contract Specialist responsible for administration of the contract is obtained prior to communicating the trip. Approval must be requested at least 30 days before the scheduled departure date in order that all necessary clearances may be processed. Each individual trip must be approved separately even though it may have been included in a previously approved budget. Foreign travel is defined as any travel outside of Canada and the United States and its territories and possessions.

b. Domestic Travel. Expenditures for domestic travel shall not be allowed if they exceed the amount allotted for such travel in the approved budget used for providing funds for the contract by more than 25% or \$500, whichever is greater, except with advance written approval by the Contracting Officer.

c. Domestic/local travel shall take place in accordance with Department of Defense Joint Travel Regulations (JTR). Documentation showing dates and mileage for such travel shall be maintained and furnished in support of invoice claiming reimbursement.

END OF SECTION G

SECTION I

CONTRACT CLAUSES

I.1 52.252-2 CLAUSES INCORPORATED BY REFERENCE (JUN 1988)

This contract incorporates one or more clauses by reference, with the same force and effect as if they were given in full text. Upon request, the Contracting Officer will make their full text available.

(End of clause)

- I.2 52.202-1 DEFINITIONS (SEPT 1991)
(Reference 2.201)
- I.3 52.203-1 OFFICIALS NOT TO BENEFIT (APR 1984)
(Reference 3.102-2)
- I.4 52.203-3 GRATUITIES (APR 1984)
(Reference 3.202)
- I.5 52.203-5 COVENANT AGAINST CONTINGENT FEES (APR 1984)
(Reference 3.404(c))
- I.6 52.203-6 RESTRICTIONS ON SUBCONTRACTOR SALES TO THE GOVERNMENT
(JUL 1985) (Reference 3.503-2)
- I.7 52.203-7 ANTI-KICKBACK PROCEDURES (OCT 1988)
(Reference 3.502-3)
- I.8 52.203-10 PRICE OR FEE ADJUSTMENT FOR ILLEGAL OR IMPROPER ACTIVITY
(SEP 1990) (Reference 3.104-10(c))
- I.9 52.203-12 LIMITATION ON PAYMENTS TO INFLUENCE CERTAIN FEDERAL
TRANSACTIONS (JAN 1990) (Reference 3.808(b))
- I.10 52.209-6 PROTECTING THE GOVERNMENT'S INTEREST WHEN SUBCONTRACTING
WITH CONTRACTORS DEBARRED, SUSPENDED, OR PROPOSED FOR
DEBARMENT (NOV 1992) (Reference 9.409(b))
- I.11 52.212-8 DEFENSE PRIORITY AND ALLOCATION REQUIREMENTS (SEP 1990)
(Reference 12.304(b))
- I.12 52.215-1 EXAMINATION OF RECORDS BY COMPTROLLER GENERAL (FEB 1993)
- I.13 52.215-2 AUDIT--NEGOTIATION (FEB 1993)
(Reference 15.106-2(b))
- I.14 52.215-31 WAIVER OF FACILITIES CAPITAL COST OF MONEY (SEP 1987)
(Reference 15.904(b))

I.15	52.215-33	ORDER OF PRECEDENCE (JAN 1986) (Reference 15.406-3(b))
I.16	52.219-6	NOTICE OF TOTAL SMALL BUSINESS SET-ASIDE (APR 1984) (Reference 19.508(c))
I.17	52.219-8	UTILIZATION OF SMALL BUSINESS CONCERNS AND SMALL DISADVANTAGED BUSINESS CONCERNS (FEB 1990) (Reference 19.708(a))
I.18	52.219-13	UTILIZATION OF WOMEN-OWNED SMALL BUSINESSES (AUG 1986) (Reference 19.902)
I.19	52.219-14	LIMITATIONS ON SUBCONTRACTING (JAN 1991) (Reference 19.508(e))
I.20	52.220-1	PREFERENCE FOR LABOR SURPLUS AREA CONCERNS (APR 1984) (Reference 20.103(b))
I.21	52.220-3	UTILIZATION OF LABOR SURPLUS AREA CONCERNS (APR 1984) (Reference 20.302(a))
I.22	52.222-3	CONVICT LABOR (APR 1984) (Reference 22.202)
I.23	52.222-26	EQUAL OPPORTUNITY (APR 1984) (Reference 22.810(e))
I.24	52.222-35	AFFIRMATIVE ACTION FOR SPECIAL DISABLED AND VIETNAM ERA VETERANS (APR 1984) (Reference 22.1308)
I.25	52.222-36	AFFIRMATIVE ACTION FOR HANDICAPPED WORKERS (APR 1984) (Reference 22.1408)
I.26	52.222-37	EMPLOYMENT REPORTS ON SPECIAL DISABLED VETERANS AND VETERANS OF THE VIETNAM ERA (JAN 1988) (Reference 22.1308(b))
I.27	52.223-2	CLEAN AIR AND WATER (APR 1984) (Reference 23.105(b))
I.28	52.223-6	DRUG-FREE WORKPLACE (JUL 1990) (Reference 23.505(b))
I.29	52.227-1 I	AUTHORIZATION AND CONSENT (APR 1984)--ALTERNATE I (APR 1984) (Reference 27.201-2(b))
I.30	52.227-2	NOTICE AND ASSISTANCE REGARDING PATENT AND COPYRIGHT INFRINGEMENT (APR 1984) (Reference 27.202-2)
I.31	52.227-11	PATENT RIGHTS--RETENTION BY THE CONTRACTOR (SHORT FORM) (JUN 1989) (Reference 27.303(a)(1))

I.32	52.227-20	RIGHTS IN DATA--SBIR PROGRAM (MAR 1994) (Reference 27.409(l))
I.33	52.229-3	FEDERAL, STATE, AND LOCAL TAXES (JAN 1991) (Reference 29.401-3)
I.34	52.229-5	TAXES--CONTRACTS PERFORMED IN U.S. POSSESSIONS OR PUERTO RICO (APR 1984) (Reference 29.401-5)
I.35	52.232-2	PAYMENTS UNDER FIXED-PRICE RESEARCH AND DEVELOPMENT CONTRACTS (APR 1984) (Reference 32.111(a)(2))
I.36	52.232-9	LIMITATION ON WITHHOLDING OF PAYMENTS (APR 1984) (Reference 32.111(c)(2))
I.37	52.232-17	INTEREST (JAN 1991) (Reference 32.617(a)&())
I.38	52.232-23	ASSIGNMENT OF CLAIMS (JAN 1986) (Reference 32.806(a)(1))
I.39	52.232-25	PROMPT PAYMENT (MAR 1994) (Reference 32.908(c))
I.40	52.233-1	DISPUTES (MAR 1994) (Reference 33.215)
I.41	52.233-3	PROTEST AFTER AWARD (AUG 1989) (Reference 33.106(b))
I.42	52.242-13	BANKRUPTCY (APR 1991) (Reference 42.903)
I.43	52.243-1 V	CHANGES--FIXED-PRICE (AUG 1987)--ALTERNATE V (APR 1984) (Reference 43.205(a)(6))
I.44	52.244-5	COMPETITION IN SUBCONTRACTING (APR 1984) (Reference 44.204(e))
I.45	52.245-2	GOVERNMENT PROPERTY (FIXED-PRICE CONTRACTS) (DEC 1989) (Reference 45.106(b)(1))
I.46	52.246-23	LIMITATION OF LIABILITY (APR 1984) (Reference 46.805(a)(1))
I.47	52.247-63	PREFERENCE FOR U.S.-FLAG AIR CARRIERS (APR 1984) (Reference 47.405)
I.48	52.249-1	TERMINATION FOR CONVENIENCE OF THE GOVERNMENT (FIXED-PRICE) (SHORT FORM) (APR 1984) (Reference 49.502(a)(1))

I.49	52.249-9	DEFAULT (FIXED-PRICE RESEARCH AND DEVELOPMENT) (APR 1984) (Reference 49.504(b))
I.50	252.203-7001	SPECIAL PROHIBITION ON EMPLOYMENT (APR 1993) (Reference 03.570-5)
I.51	252.204-7003	CONTROL OF GOVERNMENT PERSONNEL WORK PRODUCT (APR 1992) (Reference 04.404-70(b))
I.52	252.209-7000	ACQUISITION FROM SUBCONTRACTORS SUBJECT TO ON-SITE INSPECTION UNDER THE INTERMEDIATE-RANGE NUCLEAR FORCES (INF) TREATY (DEC 1991) (Reference 09.103-70)
I.53	252.225-7012	PREFERENCE FOR CERTAIN DOMESTIC COMMODITIES (MAY 1994) (Reference 25.7002-4(a))
I.54	252.227-7029	IDENTIFICATION OF TECHNICAL DATA (APR 1988) (Reference 27.403-72(a))
I.55	252.227-7030	TECHNICAL DATA--WITHHOLDING OF PAYMENT (OCT 1988) (Reference 27.403-74(b))
I.56	252.227-7034	PATENTS--SUBCONTRACTS (APR 1984) (Reference 27.304-4)
I.57	252.227-7037	VALIDATION OF RESTRICTIVE MARKINGS ON TECHNICAL DATA (APR 1988) (Reference 27.403-73(a))
I.58	252.227-7039	PATENTS--REPORTING OF SUBJECT INVENTIONS (APR 1990) (Reference 27.303(a))
I.59	252.231-7000	SUPPLEMENTAL COST PRINCIPLES (DEC 1991) (Reference 31.100-70)
I.60	252.232-7006	REDUCTION OR SUSPENSION OF CONTRACT PAYMENTS UPON FINDING OF FRAUD (AUG 1992) (Reference 32.111-70)
I.61	252.242-7000	POSTAWARD CONFERENCE (DEC 1991) (Reference 42.570)
I.62	252.243-7001	PRICING OF CONTRACT MODIFICATIONS (DEC 1991) (Reference 43.205-71)
I.63	252.247-7024	NOTIFICATION OF TRANSPORTATION OF SUPPLIES BY SEA (DEC 1991) (Reference 47.573(c))
I.64	52.203-9	REQUIREMENT FOR CERTIFICATE OF PROCUREMENT INTEGRITY— MODIFICATION (NOV 1990)

(a) Definitions. The definitions set forth in FAR 3.104-4 are hereby incorporated in this clause.

(b) The Contractor agrees that it will execute the certification set forth in paragraph (c) of this clause when requested by the Contracting Officer in connection with the execution of any modification of this contract.

(c) Certification. As required in paragraph (b) of this clause, the officer or employee responsible for the modification proposal shall execute the following certification:

CERTIFICATE OF PROCUREMENT INTEGRITY--MODIFICATION (NOV 1990)

(1) I, _____ [Name of certifier] am the officer or employee responsible for the preparation of this modification proposal and hereby certify that, to the best of my knowledge and belief, with the exception of any information described in this certification, I have no information concerning a violation or possible violation of subsection 27(a), (b), (d) or (f) of the Office of Federal Procurement Policy Act, as amended+ (41 U.S.C. 423), (hereinafter referred to as "the Act"), as implemented in the FAR, occurring during the conduct of this procurement _____ (contract and modification number).

(2) As required by subsection 27(e)(1)(B) of the Act, I further certify that to the best of my knowledge and belief, each officer, employee, agent, representative, and consultant of _____ [Name of Offeror] who has participated personally and substantially in the preparation or submission of this proposal has certified that he or she is familiar with, and will comply with, the requirements of subsection 27(a) of the Act, as implemented in the FAR, and will report immediately to me any information concerning a violation or possible violation of subsections 27(a), (b), (d), or (f) of the Act, as implemented in the FAR, pertaining to this procurement.

(3) Violations or possible violations: (Continue on plain bond paper if necessary and label Certificate of Procurement Integrity--Modification (Continuation Sheet), ENTER "NONE" IF NONE EXISTS)

[Signature of the officer or employee responsible for the modification proposal and date]

[Typed name of the officer or employee responsible for the modification proposal]

+ Subsections 27(a), (b), and (d) are effective on December 1, 1990. Subsection 27(f) is effective on June 1, 1991.

THIS CERTIFICATION CONCERNS A MATTER WITHIN THE JURISDICTION OF AN AGENCY OF THE UNITED STATES AND THE MAKING OF A FALSE, FICTITIOUS, OR FRAUDULENT CERTIFICATION MAY RENDER THE MAKER SUBJECT TO PROSECUTION UNDER TITLE 18, UNITED STATES CODE, SECTION 1001.

(End of certification)

(d) In making the certification in paragraph (2) of the certificate, the officer or employee of the competing Contractor responsible for the offer or bid, may rely upon a one-time certification from each individual required to submit a certification to the competing Contractor, supplemented by periodic training. These certifications shall be obtained at the earliest possible date after an individual required to certify begins employment or association with the Contractor. If a Contractor decides to rely on a certification executed prior to the suspension of section 27 (i.e., prior to December 1, 1989), the Contractor shall ensure that an individual who has so certified is notified that section 27 has been reinstated. These certifications shall be maintained by the Contractor for a period of 6 years from the date a certifying employee's employment with the company ends or, for an agency, representative, or consultant, 6 years from the date such individual ceases to act on behalf of the Contractor.

(e) The certification required by paragraph (c) of this clause is a material representation of fact upon which reliance will be placed in executing this modification.

(End of clause)

1.65 52.225-11

RESTRICTIONS ON CERTAIN FOREIGN PURCHASES (MAY 1992)

(a) Unless advance written approval of the Contracting Officer is obtained, the Contractor shall not acquire for use in the performance of this contract--

(1) Any supplies or services originating from sources within the communist areas of North Korea, Vietnam, Cambodia, or Cuba;

(2) Any supplies that are or were located in or transported from or through North Korea, Vietnam, Cambodia, or Cuba; or

(3) Arms, ammunition, or military vehicles produced in South Africa, or manufacturing data for such articles.

(b) The Contractor shall not acquire for use in the performance of this contract supplies or services originating from sources within Iraq, any supplies that are or were located in or transported from or through Iraq, or any supplies or services from entities controlled by the Government of Iraq.

(c) The Contractor agrees to insert the provisions of this clause, including this paragraph (c), in all subcontracts hereunder.

(End of clause)

1.66 252.201-7000 CONTRACTING OFFICER'S REPRESENTATIVE (DEC 1991)

(a) Definition. "Contracting Officer's representative" means an individual designated in accordance with subsection 201.602-2 of the Defense Federal Acquisition Regulation Supplement and authorized in writing by the Contracting Officer to perform specific technical or administrative functions.

(b) If the Contracting Officer designates a contracting officer's representative (COR), the Contractor will receive a copy of the written designation. It will specify the extent of the COR's authority to act on behalf of the Contracting Officer. The COR is not authorized to make any commitments or changes that will affect price, quality, quantity, delivery, or any other term or condition of the contract.

(End of clause)

1.67 252.227-7013 II RIGHTS IN TECHNICAL DATA AND COMPUTER SOFTWARE
(OCT 1988)—ALTERNATE II (MAY 1994)

(a) Definitions. (1) "Commercial computer software," as used in this clause, means computer software which is used regularly for other than Government purposes and is sold, licensed, or leased in significant quantities to the general public at established market or catalog prices.

(2) "Computer," as used in this clause, means a data processing device capable of accepting data, performing prescribed operations on the data, and supplying the results of these operations; for example, a device that operates on discrete data by performing arithmetic and Logic processes on the data, or a device that operates on analog data by performing physical processes on the data.

(3) "Computer data base," as used in this clause, means a collection of data in a form capable of being processed and operated on by a computer.

(4) "Computer program," as used in this clause, means a series of instructions or statements in a form acceptable to a computer, designed to cause the computer to execute an operation or operations.

Computer programs include operating systems, assemblers, compilers, interpreters, data management systems, utility programs, sort-merge programs, and ADPE maintenance/diagnostic programs, as well as applications programs such as payroll, inventory control, and engineering analysis programs. Computer programs may be either machine-dependent or machine-independent, and may be general-purpose in nature or be designed to satisfy the requirements of a particular user.

(5) "Computer software," as used in this clause, means computer programs and computer data bases.

(6) "Computer software documentation," as used in this clause, means technical data, including computer Listings and printouts, in human-readable form which (i) documents the design or details of computer software, (ii) explains the capabilities of the software, or (iii) provides operating instructions for using the software to obtain desired results from a computer.

(7) "Data," as used in this clause, means recorded information, regardless of form or method of the recording.

(8) "Detailed design data," as used in this clause, means technical data that describes the physical configuration and performance characteristics of an item or component in sufficient detail to ensure that an item or component produced in accordance with the technical data will be essentially identical to the original item or component.

(9) "Detailed manufacturing or process data," as used in this clause, means technical data that describes the steps, sequences, and conditions of manufacturing, processing or assembly used by the manufacturer to produce an item or component or to perform a process.

(10) "Developed," as used in this clause, means that the item, component, or process exists and is workable. Thus, the item or component must have been constructed or the process practiced. Workability is generally established when the item, component or process has been analyzed or tested sufficiently to demonstrate to reasonable people skilled in the applicable art that there is a high probability that it will operate as intended. Whether, how much, and what type of analysis or testing is required to establish workability depends on the nature of the item, component, or process, and the state of the art. To be considered "developed," the item, component, or process need not be at the stage where it could be offered for sale or sold on the commercial market, nor must the item, component or process be actually reduced to practice within the meaning of Title 35 of the United States Code.

(11) "Developed Exclusively with Government Funds," as used in this clause, means, in connection with an item, component, or process, that the cost of development was paid for in whole by the Government or that the development was required for the performance of a Government contract or subcontract.

(12) "Developed Exclusively at Private Expense," as used in this clause, means, in connection with an item, component, or process, that no part of the cost of development was paid for by the Government and that the development was not required for the performance of a Government contract or subcontract. Independent research and development and bid and proposal costs, as defined in FAR 31.205-18 (whether or not included in a formal independent research and development program), are considered to be at private expense. All other indirect costs of development are considered Government funded when development was required for the performance of a Government contract or subcontract. They are considered funded at private expense when development was not required for the performance of a Government contract or subcontract.

(13) "Form, fit, and function data," as used in this clause, means technical data that describes the required overall physical, functional, and performance characteristics, (along with the qualification requirements, if applicable) of an item, component, or process to the extent necessary to permit identification of physically and functionally interchangeable items.

(14) "Government purpose license rights (GPLR)," as used in this clause, means rights to use, duplicate, or disclose data (and in the SBIR Program, computer software), in whole or in part and in any manner, for Government purposes only, and to have or permit others to do so for Government purposes only. Government purposes include competitive procurement, but do not include the right to have or permit others to use technical data (and in the SBIR Program, computer software) for commercial purposes.

(15) "Limited rights," as used in this clause, means rights to use, duplicate, or disclose technical data, in whole or in part, by or for the Government, with the express limitation that such technical data shall not, without the written permission of the party asserting Limited rights, be: released or disclosed outside the Government; used by the Government for manufacture, or in the case of computer software documentation, for preparing the same or similar computer software; or used by a party other than the Government, except that the Government may release or disclose technical data to persons outside the Government, or permit the use of technical data by such persons, if--

(i) Such release, disclosure, or use--

(A) Is necessary for emergency repair and overhaul; or

(B) Is a release or disclosure of technical data (other than detailed manufacturing or process data) to, or use of such data by, a foreign government that is in the interest of the Government and is required for evaluational or informational purposes;

(ii) Such release, disclosure, or use is made subject to a prohibition that the person to whom the data is released or disclosed may not further release, disclose, or use such data; and

(iii) The contractor or subcontractor asserting the restriction is notified of such release, disclosure, or use.

(16) "Required for the Performance of a Government Contract or Subcontract," as used in this clause, means, in connection with the development of an item, component, or process, that the development was specified in a Government contract or subcontract or that the development was accomplished during and was necessary for performance of a Government contract or subcontract.

(17) "Restricted rights," as used in this clause, means rights that apply only to computer software, and include, as a minimum, the right to--

(i) Use computer software with the computer for which or with which it was acquired, including use at any Government installation to which the computer may be transferred by the Government;

- (ii) Use computer software with a backup computer if the computer for which or with which it was acquired is inoperative;
- (iii) Copy computer programs for safekeeping (archives) or backup purposes; and
- (iv) Modify computer software, or combine it with other software, subject to the provision that those portions of the derivative software incorporating restricted rights software are subject to the same restricted rights.

In addition, restricted rights include any other specific rights not inconsistent with the minimum rights in (a)(17)(i)-(iv) above that are listed or described in the contract or described in a license agreement made a part of the contract.

(18) "Technical data," as used in this clause, means recorded information, regardless of the form or method of the recording of a scientific or technical nature (including computer software documentation). The term does not include computer software or data incidental to contract administration, such as financial and/or management information.

(19) "Unlimited rights," as used in this clause, means rights to use, duplicate, release, or disclose, technical data or computer software in whole or in part, in any manner and for any purpose whatsoever, and to have or permit others to do so.

(20) "Unpublished," as used in this clause, means that technical data or computer software has not been released to the public or furnished to others without restriction on further use or disclosure. Delivery of other than unlimited rights technical data or computer software to or for the Government under the contract does not, in itself, constitute release to the public.

(b) Rights in Technical Data. (1) Unlimited Rights. The Government is entitled to and will receive unlimited rights in:

- (i) Form, fit, and function data pertaining to items, components, or processes prepared or required to be delivered under this or any other Government contract or subcontract;
- (ii) Manuals or instructional materials (other than detailed manufacturing or process data or commercial computer software documentation) prepared or required to be delivered under this or any other contract or any subcontract hereunder necessary for installation, operation, maintenance, or training purposes;
- (iii) Technical data prepared or required to be delivered under this or any other Government contract or subcontract and constituting corrections or changes to Government-furnished data; and
- (iv) Technical data which is otherwise publicly available, or has been released or disclosed by the Contractor or subcontractor, without restriction on further release or disclosure.

(2) Limited Rights. The Government shall have limited rights in:

- (i) Unpublished technical data pertaining to items, components or processes developed exclusively at private expense, and unpublished computer software documentation related to computer software that is acquired with restricted rights, other than such data included in (b)(1) of this clause. The limited rights shall be for a period of four (4) years (or such longer period as may be authorized by the Contracting Officer for good cause shown) after acceptance of the last deliverable item under the contract under which the technical data or computer software documentation were generated. Limited rights shall be effective provided that only the portion or portions of each piece of data to which limited rights are to be asserted are identified (for example, by circling, underscoring, or a note), and that the piece of data is marked with the legend below containing:

(A) The number of the prime contract under which the technical data is to be delivered; and

(B) The name of the Contractor and/or any subcontractor asserting limited rights.

LIMITED RIGHTS LEGEND

Contract No. _____

Contractor: _____

The restrictions governing the use of technical data marked with this legend are set forth in the definition of "Limited Rights" in DFARS clause at 252.227-7013. This legend, together with the indications of the portions of this data, shall be included on any reproduction hereof which includes any part of the portions subject to limited rights. The limited rights legend shall be honored only as Long as the data continues to meet the definition of limited rights.

(3) Government Purpose License Rights. After the expiration of the four (4) year limited rights period established in paragraph (b)(2), the Government shall have Government Purpose License Rights in any technical data generated or required to be delivered under this contract or any subcontract hereunder, which is not otherwise subject to unlimited rights under subparagraph (b)(1) of this clause. The Government shall not be Liable for unauthorized use or disclosure of the data by third parties. Government Purpose License Rights shall be effective provided that only the portion or portions of each piece of data to which such rights are to be asserted are identified (for example, by circling, underscoring, or a note), and that the piece of data is marked with the legend below:

- (i) The number of the prime contract under which the technical data is to be delivered; and
- (ii) The name of the contractor and/or any subcontractor asserting Government Purpose License Rights.

GOVERNMENT PURPOSE LICENSE RIGHTS (SBIR PROGRAM)

Contract No. _____

Contractor: _____

For a period of four (4) years after acceptance of the last deliverable intern under the above contract, this technical data shall be subject to the ~~restrictions contained in the definition of "Limited Rights"~~ in the DFARS clause at 252.227-7013. After the four-year period, the data shall be subject to the restrictions contained in the definition of "Government Purpose License Rights" in the DFARS clause at 252.227-7013. The Government assumes no liability for unauthorized use or disclosure by others. This legend, together with the indications of the portions of the data which are subject to such limitations, shall be included on any reproduction hereof which contains any portions subject to such limitations and shall be honored only as long as the data continues to meet the definition of Government purpose license rights.

(c) Rights in Computer Software. (1) Restricted Rights. (1) The Government shall have restricted rights in computer software, Listed or described in a License agreement made a part of this contract, which the parties have agreed will be furnished with restricted rights. Notwithstanding any contrary provision in any such license agreement, the Government shall have the rights included in the definition of restricted rights in paragraph (a)(17) above. Unless the computer software is marked by the Contractor with the following legend:

RESTRICTED RIGHTS LEGEND

Use, duplication or disclosure is subject to restrictions stated in Contract No. _____
with _____ (Name of Contractor) _____.

and the related computer software documentation includes a prominent statement of the restrictions applicable to the computer software, the Government shall have unlimited rights in the software. The Contractor may not place any legend on computer software indicating restrictions on the Government's rights in such software unless the restrictions are set forth in a license agreement made a part of this contract prior to the delivery date of the software. Failure of the Contractor to apply a restricted rights legend to such computer software shall relieve the Government of liability with respect to this unmarked software.

(ii) Notwithstanding subparagraph (c)(1)(i) above, commercial computer software and related documentation developed at private expense and not in the public domain may be marked with the following legend:

RESTRICTED RIGHTS LEGEND

Use, duplication, or disclosure by the Government is subject to restrictions as set forth in subparagraph (c)(1)(ii) of the Rights in Technical Data and Computer -Software clause at DFARS 252.227-7013.

(Name of Contractor and Address)

When acquired by the Government, commercial computer software and related documentation so legended shall be subject to the following:

- (A) Title to and ownership of the software and documentation shall remain with the Contractor.
- (B) User of the software and documentation shall be limited to the facility for which it is acquired.
- (C) The Government shall not provide or otherwise make available the software or documentation, or any portion thereof, in any form, to any third party without the prior written approval of the Contractor. Third parties do not include prime contractors, subcontractors and agents of the Government who have the Government's permission to use the licensed software and documentation at the facility, and who have agreed to use the licensed software and documentation only in accordance with these restrictions. This provision does not limit the right of the Government to use software, documentation, or information therein, which the Government has or may obtain without restrictions.
- (D) The Government shall have the right to use the computer software and documentation with the computer for which it is acquired at any other facility to which that computer may be transferred; to use the computer software and documentation with a backup computer when the primary computer is inoperative; to copy computer programs for safekeeping (archives) or backup purposes; and to modify the software and documentation or combine it with other software, Provided, that the unmodified portions shall remain subject to these restrictions.

(2) Government Purpose License Rights. After the expiration of the four (4) year restricted rights period established in paragraph (c)(1), the Government shall have Government Purpose License Rights in:

- (i) Computer software generated in the performance of experimental, developmental or research work which was specified as an element of performance in this or any Government contract or subcontract;
- (ii) Computer software required to be originated or developed under a Government contract, or generated as a necessary part of performing a contract; and

(iii) Any other computer software required to be prepared or delivered under this contract or any subcontract hereunder, which is not otherwise subject to restricted or unlimited rights under subparagraph (c)(1) or (c)(3) of this clause. Government Purpose License Rights shall be effective provided that each unit of software is marked with an abbreviated license rights legend reciting that the use, duplication, or disclosure of the software is subject to the same restrictions included in the same contract (identified by number) with the same contractor (identified by name). The Government assumes no liability for unauthorized use, duplication, or disclosure by others.

(3) Unlimited Rights. The Government shall have unlimited rights in:

- (i) Computer software required to be prepared or delivered under this or any subcontract hereunder that was previously delivered or previously required to be delivered to the Government under any contract or subcontract with unlimited rights;
- (ii) Computer software that is publicly available or has been or is normally released or disclosed by the Contractor without restriction on further use or disclosure; and
- (iii) Computer data bases, consisting of information supplied by the Government, information in which the Government has unlimited rights, or information which is in the public domain.

(d) Technical Data and Computer Software Previously Provided Without Restriction. Contractor shall assert no restrictions on the Government's rights to use or disclose any data or computer software which the Contractor has previously delivered to the Government without restriction. The limited or restricted rights provided for by this clause shall not impair the right of the Government to use similar or identical data or computer software acquired from other sources.

(e) Copyrights.

(1) In addition to the rights granted under the provisions of paragraphs (b) and (c) above, the Contractor hereby grants to the Government a nonexclusive, paid-up license throughout the world, of the scope set forth below, under any copyright owned by the Contractor, in any work of authorship prepared for or acquired by the Government under this contract, to reproduce the work in copies or phonorecords, to distribute copies or phonorecords to the public, to perform or display the work publicly, and to prepare derivative works thereof, and to have others do so for Government purposes. With respect to technical data and computer software in which the Government has unlimited rights, the license shall be of the same scope as the rights set forth in the definition of unlimited rights in (a)(19) above. With respect to technical data in which the Government has limited rights, the scope of the license is limited to the rights set forth in the definition of limited rights. With respect to computer software which the parties have agreed will be furnished with restricted rights, the scope of the license is limited to such rights.

(2) Unless written approval of the Contracting Officer is obtained, the Contractor shall not include (in technical data or computer software prepared for or acquired by the Government under this contract) any works of authorship in which copyright is not owned by the Contractor without acquiring for the Government any rights necessary to perfect a copyright license of the scope specified herein.

(3) The Contractor shall be considered the person for whom the work was prepared for the purpose of determining authorship under 17 U.S.C. 201(b).

(4) Technical data delivered under this contract bearing a copyright notice shall also include the following statement: This material may be reproduced by or for the U.S. Government pursuant to the copyright license under the clause at DFARS 252.227-7013 (date).

(f) Removal of Unjustified and Nonconforming Markings.

(1) Unjustified Technical Data Markings. Notwithstanding any provision of this contract concerning inspection and acceptance, the Government may, at the contractor's expense, correct, cancel, or ignore any marking not justified by the terms of this contract on any technical data furnished hereunder in accordance with the clause of this contract entitled "Validation of Restrictive Markings on Technical Data," DFARS 252.227-7037.

(2) Nonconforming Technical Data Markings. Correction of nonconforming markings is not subject to DFARS 252.227-7037. The Government may, at the Contractor's expense, correct any nonconforming markings if the Contracting Officer notifies the Contractor and the Contractor fails to correct the nonconforming markings within sixty (60) days.

(3) Unjustified and Nonconforming Computer Software Markings. Notwithstanding any provision of this contract concerning inspection and acceptance, the Government may correct, cancel, or ignore any marking not authorized by the terms of this contract on any computer software furnished hereunder, if:

(i) The Contractor fails to respond within sixty (60) days to a written inquiry by the Government concerning the propriety of the markings; or

(ii) The Contractor's response fails to substantiate, within sixty (60) days after written notice, the propriety of restricted rights markings.

In either case, the Government shall give written notice to the Contractor of the action taken.

(g) Relation to Patents. Nothing contained in this clause shall imply a license to the Government under any patent or be construed as affecting the scope of any license or other right otherwise granted to the Government under any patent.

(h) Limitation on Charges for Data and Computer Software. The Contractor recognizes that the Government is not obligated to pay, or to allow to be paid, any charges for data or computer software which the Government has a right to use and disclose to others without restriction and Contractor agrees to refund any such payments. This provision applies to contracts that involve payments by subcontractors and those entered into through the Military Assistance Program, in addition to U.S. Government prime contracts. It does not apply to reasonable reproduction, handling, mailing, and similar administrative costs.

(i) Acquisition of Technical Data and Computer Software from Subcontractors.

(1) The Contractor must satisfy its contractual obligation to the Government while ensuring that the rights afforded its subcontractors under 10 U.S.C. 2320 and 2321 are recognized and protected. In satisfying its obligation, the Contractor must accomplish the balancing of interests described at DFARS 227.402-70 in dealing with its subcontractors.

(2) Whenever any technical data or computer software is to be obtained from a subcontractor under this contract, the Contractor shall use this same clause in the subcontract, without alteration, and no other clause shall be used to enlarge or diminish the Government's or the Contractor's rights in the subcontract data or computer software.

(3) Technical data required to be delivered by a subcontractor shall normally be delivered to the next higher-tier contractor. However, when there is a requirement in the prime contract for data which may be submitted with other than unlimited rights by a subcontractor, then said subcontractor may fulfill its requirement by submitting such data directly to the Government, rather than through the prime Contractor.

(4) The Contractor and higher-tier subcontractors will not use their power to award subcontracts as economic leverage to obtain rights in technical data or computer software from their subcontractors.

(5) The Contractor shall ensure that subcontractor rights are recognized and protected in the notification and listing process at paragraphs (j) and (k) below.

(6) In no event shall the Contractor use its obligation to recognize and protect subcontractor rights in technical data as an excuse for failing to satisfy its contractual obligation to the Government.

(j) Notice of Limitations on Government Rights. (1) The Offeror/Contractor shall notify the Contracting Officer of its or its potential subcontractor's use in the performance of the contract or subcontract of items, components, processes and computer software that--

(i) Have been developed exclusively at private expense;

(ii) Have been developed in part at private expense; or

- (iii) Embody technology that has been developed exclusively with Government funds which the Offeror or Contractor or subcontractor desires exclusive rights to commercialize, with Government approval. (2) Such notification is not required with respect to items, components, processes or computer software if no technical data is required to be delivered or if the required technical data is delivered with unlimited rights.
- (3) Such notification shall be accompanied by the following representation:

REPRESENTATION OF PRIVATE DEVELOPMENT

The Offeror/Contractor/Subcontractor represents that, to the best of its knowledge and belief, the information contained in this notification is current, accurate, and complete.

Date
Name and Title
Official

~~This representation shall be dated and the signing official (identified by name and title) shall be duty authorized to bind the Contractor.~~

(4) Upon request by the Contracting Officer, the Offeror or Contractor shall provide sufficient information to enable the Contracting Officer to identify and evaluate the Contractors or subcontractor's assertions made in (j)(1) above.

(k) Identification of restrictions on Government rights. Technical data and computer software shall not be tendered to the Government with other than unlimited rights, unless the technical data or computer software are identified in a list made part of this contract. This list is intended to facilitate review and acceptance of the technical data and computer software by the Government and does not change, waive, or otherwise modify the rights or obligations of the parties under the clause at DFARS 252.227-7037. As a minimum, this list must--

- (1) Identify the items, components, processes, or computer software to which the restrictions on the Government apply;
- (2) Identify or describe the technical data or computer software subject to other than unlimited rights; and
- (3) Identify or describe, as appropriate, the category or categories of Government rights, the agreed-to time limitations, or any special restrictions on the use of disclosure of the technical data or computer software.

(l) Postaward Negotiation - Disputes. in the case of an item, component, or process that is developed in part with Government funds and in part at after exhausting all reasonable efforts, the parties apportionment of the rights in technical data contract by the date established in the contract for any extension established by the Contracting Officer, then the Contracting Officer may establish the respective data rights of the parties, subject to Contractor appeal as provided in the Disputes clause. In any event, the Contractor proceed with completion of the contract.

(End of clause)

(a) Definitions. As used in this clause--

(1) "Components" means articles, materials, and supplies incorporated directly into end products at any level of manufacture, fabrication, or assembly by the contractor or any subcontractor.

(2) "Department of Defense (DoD)" means the Army, Navy, Air Force, Marine Corps, and defense agencies.

(3) "Foreign flag vessel" means any vessel that is not a U.S.-flag vessel.

(4) "Ocean transportation" means any transportation aboard a ship, vessel, boat, barge, or ferry through international waters.

(5) "Subcontractor" means a supplier, materialman, distributor, or vendor at any level below the prime Contractor whose contractual obligation to perform results from, or is conditioned upon, award of the prime contract and who is performing any part of the work or other requirement of the prime contract.

(6) "Supplies" means all property, except land and interests in land, that is clearly identifiable for eventual use by or owned by the DoD at the time of transportation by sea.

(i) An item is clearly identifiable for eventual use by the DoD if, for example, the contract documentation contains a reference to a DOD contract number or a military destination.

(ii) Supplies includes (but is not limited to) public works; buildings and facilities; ships; floating equipment and vessels of every character, type, and description, with parts, subassemblies, accessories, and equipment; machine tools; material; equipment; stores of all kinds; end items; construction materials; and components of the foregoing.

(7) "U.S.-flag vessel" means a vessel of the United States or belonging to the United States, including any vessel registered or having national status under the laws of the United States.

(b) The Contractor shall employ U.S.-flag vessels in the transportation by sea of any supplies to be furnished in the performance of this contract. The Contractor and its subcontractors may request that the Contracting Officer authorize shipment in foreign-flag vessels, or designate available U.S.-flag vessels, if the Contractor or a subcontractor believes that--

(1) U.S.-flag vessels are not available for timely shipment;

(2) The freight charges are inordinately excessive or unreasonable; or

(3) Freight charges are higher than charges to private persons for transportation of like goods.

(c) The Contractor must submit any request for use of other than U.S. flag vessels in writing to the Contracting Officer at least 45 days prior to the sailing date necessary to meet its delivery schedules. The Contracting Officer will process requests submitted after such date(s) as expeditiously as possible, but the Contracting Officer's failure to grant approvals to meet the shipper's sailing date will not of itself constitute a compensable delay under this or any other clause of this contract. Requests shall contain at a minimum--

(1) Type, weight, and cube of cargo;

(2) Required shipping date;

(3) Special handling and discharge requirements;

(4) Loading and discharge points;

(5) Name of shipper and consignee;

(6) Prime contract number; and

(7) A documented description of efforts made to secure U.S.-flag vessels, including points of contact (with names and telephone numbers) with at least two U.S.-flag carriers contacted. Copies of telephone notes, telegraphic and facsimile message or letters will be sufficient for this purpose.

(d) The Contractor shall, within 30 days after each shipment covered by this clause, provide the Contracting Officer and the Division of National Cargo, Office of Market Development, Maritime Administration, U.S. Department of Transportation, Washington, DC 20590, one copy of the rated on board vessel operating carrier's ocean bill of lading, which shall contain the following information—

- (1) Prime contract number;
- (2) Name of vessel;
- (3) Vessel flag of registry;
- (4) Date of Loading;
- (5) Port of Loading;
- (6) Port of final discharge;
- (7) Description of commodity;
- (8) Gross weight in pounds and cubic feet if available;
- (9) Total ocean freight in U.S. dollars; and
- (10) Name of the steamship company.

(e) The Contractor agrees to provide with its final invoice under this contract a representation that to the best of its knowledge and belief--

- (1) No ocean transportation was used in the performance of this contract;
- (2) Ocean transportation was used and only U.S.-flag vessels were used for all ocean shipments under the contract;
- (3) Ocean transportation was used, and the Contractor had the written consent of the Contracting Officer for all non-U.S.-flag ocean transportation; or
- (4) Ocean transportation was used and some or all of the shipments were made on non-U.S.-flag vessels without the written consent of the Contracting Officer. The Contractor shall describe these shipments in the following format:

	Item Description	Contract Line Items	Quantity
Total...			

(f) If the final invoice does not include the required representation, the Government will reject and return it to the Contractor as an improper invoice for the purposes of the Prompt Payment clause of this contract. In the event there has been unauthorized use of non-U.S.-flag vessels in the performance of this contract, the Contracting Officer is entitled to equitably adjust the contract, based on the unauthorized use.

(g) The Contractor shall include this clause, including this paragraph (g) in all subcontracts under this contract, which exceed the small Purchase limitation of section 13.000 of the Federal Acquisition Regulation.

(End of clause)

END OF SECTION I

SECTION J - ATTACHMENTS

- J.1 SF 298 (Feb 1989), 2 pages
- J.2 Proposal Cover Sheet (Appendix A), SBIR Program, undated, 1 page
- J.3 Project Summary (Appendix B), SBIR Program, undated, 1 page
- J.4 Cost Proposal (Appendix C), SBIR Program, undated, 1 page
- J.5 Reports, undated, 8 pages
- J.6 Phase 11 Proposal Instructions, 6 pages

END OF SECTION J